

4/2/2012

ADM File No. 2006-04 Proposed Amendment of Rule 3.204

First, I completely support the abolition of supplemental complaints. They are the cause of much confusion and create impractical and unworkable scenarios.

At the same time, however, I must object to the proposed changes to MCR 3.204 found specifically at (A) (3). The proposed language would require that when there is a prior order in any county involving a child of the parties, a final order in a new action in a different county involving a new child of the same parents must include “**comprehensive provisions**” for custody, parenting time, and support for both the new child and any children named in previous actions involving the same parents. (Emphasis added.)

Hundreds of such orders are entered each year by Title IV-D Child Support Prosecutors in Michigan. However, Title IV-D funding, which supports all prosecutor child support activity, is not available to litigate issues of custody and parenting time. Both the Paternity Act (MCL 722.711 et. seq.) and the Family Support Act (MCL 552.451 et. seq.) recognize this and excuse the prosecuting attorney from any requirement to represent either party in custody or parenting time disputes. Consequently, the proposed language of the court rule would either stymie the ability of the prosecuting attorney to enter a final order for the support of a new child of the parties, or cause them to become embroiled in custody and parenting time litigation without the ability to fund it.

In addition, the proposed language does not appear to take into consideration the situation where one of the children of the parties may now reside with a third-party custodian as is often the case. In such case, it would not be possible to include comprehensive provisions for custody and parenting time of a child living with a third party.

Consequently, I respectfully recommend that the requirement of comprehensive provisions for custody and parenting time simply be removed from the proposal.

Very Truly Yours  
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